

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2001-0404-011-010

vs.

Deborah Palmer, LPN, Lic. No.027817
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated October 8, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Deborah Palmer (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated December 4, 2002, scheduling a hearing for March 19, 2003. Bd. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Board Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent.

The hearing took place on March 19 and April 16, 2003, at Hartford Hospital, Newington Campus, 181 Patricia M. Genova Drive in Newington, CT, and at the Department of Public Health, 410 Capitol Avenue in Hartford, CT, respectively.

Respondent was present during the hearing and was not represented by counsel. Tr. 3/19/03, p. 2; Tr. 4/16/03, p. 1.

Respondent submitted a written Answer to the Statement of Charges. Rt. Exh. C.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 027817 on September 20, 1999. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1H.
2. At all relevant times, respondent was a pediatric home care nurse working for Staff Mates Homecare ("Staff Mates"). As such, respondent was assigned to care for two special needs children living in the home Helen Hobson. One child had a tracheotomy, and the other child had quadriplegia. Dept. Exh. 1A, pp. 1-3, 1D, 1E, p. 3, 1F, pp. 8, 10.
3. Respondent usually worked from 9:00 a.m. until 5:00 p.m. on Saturdays; however, by agreement with Ms. Hobson, but without notifying Staff Mates, respondent changed her working hours to arrive on Saturday, March 3, 2001, one hour early and to leave one hour early, at 4:00 p.m. instead of 5:00 p.m. Dept. Exh. 1A, pp. 1-3, 1E, p. 4; Dept. Exh. 7; Rt. Exh. A, B; Tr. 3/19/03, pp. 25-27, 44, 85-86, 99; Tr. 4/16/03, pp. 6 and 16.
4. Respondent's usual procedure was to report to Ms. Hobson on the children's status and to have Ms. Hobson sign her time card shortly before her departure. On March 3, 2001, respondent reported on the children's status and had Ms. Hobson sign her time card at approximately 3:30 p.m. Rt. Exh. B; Tr. 3/19/03, pp. 51-52, 88, 92-95, 101.
5. Because Ms. Hobson forgot about respondent's change in schedule, she left her residence to run errands at approximately 3:45. Dept. Exh. 1A, pp. 1-3, 1E, p. 4; Rt. Exh. B; Tr. 3/19/03, pp. 36-38.
6. There is insufficient evidence to establish that respondent knew Ms. Hobson was not on the premises when she left the residence at 4:00 p.m. Dept. Exh. 1A, 1B, 1C, pp. 34-38, 1E, p. 6-8, 1F; Rt. Exh. B; Tr. 3/19/03, pp. 17, 35, 36, 39-42, 44-48, 50-52, 58, 61, 63, 67, 69-71, 73-74, 84-85, 89-91, 94, 95-96, 100-104.
7. Without first confirming whether Ms. Hobson was on the premises, respondent left the residence at 4:00 p.m., leaving the children unattended until approximately 4:45 p.m. when another caregiver arrived. Dept. Exh. 1A, pp. 1-8, 1B, pp. 1-7, 1E, pp. 5-6, 1F, pp. 3-6; Tr. 3/19/03, pp. 40-41, 61-62, 101-104; Tr. 4/16/03, pp. 4-6.
8. Staff Mates' policies require that all changes in schedules be made with the staffing coordinator, and that nurses call the office whenever a client leaves the premises while they are working. Dept. Exh. 1E, p. 3; Dept. Exh. 5; Dept. Exh. 6; Dept. Exh. 7; Tr. 3/19/03, pp. 27, 48-49, 78-79; Tr. 4/16/03, pp. 8-9, 14-19.
9. Respondent did not call Staff Mates when Ms. Hobson left the premises. Rt. Exh. A, p. 1; Tr. 4/16/03, p. 23.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Deborah Palmer held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* § 4-177(a) and (b), and § 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as § 19a-9-1 through § 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 2 of the Statement of Charges alleges that, on March 3, 2001, respondent left two special needs children unattended at the home of Helen Hobson, knowing that their mother was not home.

Respondent admits leaving two special needs children unattended at the home of Helen Hobson, but denies that she knew their mother was not home. Respondent also admits that she did not make sufficient efforts to verify whether Ms. Hobson was on the premises at the time she left the residence.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . .

Based on its findings, the Board concludes that respondent's conduct of leaving the children unattended as alleged in Paragraph 2 of the Statement of Charges is proven by a preponderance of the evidence presented; however, the allegation that respondent knew that their mother was not home, is not proven by a preponderance of the evidence. Nevertheless, respondent's failure to

determine whether Ms. Hobson was present before leaving the premises, is below the standard of care for a licensed practical nurses. Her failure to determine whether the mother was present constitutes neglect and grounds for disciplinary action pursuant to *Conn. Gen. Stat. §§20-99(b)(2)* and 19a-17.

Order

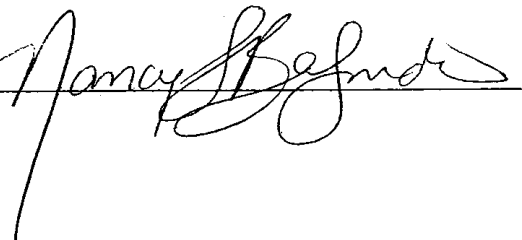
Pursuant to its authority under *Conn. Gen. Stat. § 19a-17* and *§ 20-99*, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraph 2 of the Statement of Charges, respondent's licensed practical nurse license number 027817, is hereby censured effective the date this Memorandum of Decision is signed by the Board.
2. This decision does not dispose of any criminal liability unless respondent receives or has received a written agreement from the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau stating that this decision resolves any such liability.

The Board of Examiners for Nursing hereby informs respondent, Deborah Palmer, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of November, 2003.

BOARD OF EXAMINERS FOR NURSING

By 

CERTIFICATION

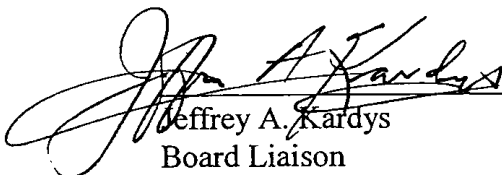
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 5th day of November 2003, by certified mail, return receipt requested, and first class mail to:

Deborah Palmer
11 Carey Avenue
PO Box 56
Central Village, CT 06332

Certified Mail RRR #70022410000675066303

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308

A handwritten signature in dark ink, appearing to read "Jeffrey A. Kardys", is written over a horizontal line.

Jeffrey A. Kardys
Board Liaison
Department of Public Health
Public Health Hearing Office